

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CORTEZ BUFFORD

Plaintiff,

v.

NATHANIEL L. BURKEMPER,
MONROE JENKINS, IV,
JOHN DOE 1 and
JOHN DOE 2,

Defendants.

Cause No. 4:15-cv-00460-TCM

ANSWER OF DEFENDANT NATHANIEL L. BURKEMPER

COMES NOW Defendant Nathaniel L. Burkemper (“Burkemper”), by and through undersigned counsel, and for his Answer to Plaintiff’s Petition, denies everything not specifically admitted herein and in particular states to the Court the following:

PRELIMINARY ALLEGATIONS

Parties

1. Defendant is without sufficient information with which to admit or deny the allegations within paragraph 1, as they pertain to Plaintiff, and therefore DENIES same.
2. Defendant admits only that, at all relevant times as set forth in the Petition, that Burkemper and Defendant Monroe Jenkins, IV (“Jenkins”) were individuals employed by the City of St. Louis Metropolitan Police Department. Defendant is without sufficient information with which to admit or deny the remaining allegations in paragraph 2 and therefore DENIES same.
3. In response to paragraph 3, Defendant admits that Burkemper and Jenkins have been named as defendants in this lawsuit, but otherwise denies any genuine, valid or legitimate claim for damages as stated or alleged in the Petition.

Venue

4. In response to paragraph 4, Defendant admits that the alleged events occurred in the City of St. Louis, but otherwise denies any genuine, valid or legitimate claim for damages as stated or alleged in the Petition.

Color of State Law

5. Defendant DENIES the allegations in paragraph 5.

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6. In response to paragraph 6, Defendant admits that Plaintiff has filed a lawsuit against all Defendants and is demanding a jury trial, but otherwise denies any genuine, valid or legitimate claim for damages as stated or alleged in the Petition.

FACTS

7. Defendant DENIES the allegations in paragraph 7.
8. Defendant DENIES the allegations in paragraph 8.
9. Defendant ADMITS the allegations in paragraph 9.
10. Defendant ADMITS the allegations in paragraph 10.
11. Defendant DENIES the allegations in paragraph 11.
12. Defendant ADMITS the allegations in paragraph 12.
13. Defendant DENIES the allegations in paragraph 13.
14. Defendant is without sufficient information with which to admit or deny the allegations within paragraph 14, as they pertain to Plaintiff, and therefore DENIES same.
15. Defendant ADMITS the allegations in paragraph 15.
16. Defendant DENIES the allegations in paragraph 16.
17. Defendant ADMITS the allegations in paragraph 17.
18. Defendant ADMITS the allegations in paragraph 18.
19. Defendant DENIES the allegations in paragraph 19.
20. Defendant ADMITS the allegations in paragraph 20.
21. Defendant DENIES the allegations in paragraph 21.
22. Defendant ADMITS that allegations in paragraph 22.

23. Defendant is without sufficient information with which to admit or deny the allegations within paragraph 23 and therefore DENIES same.

24. Defendant is without sufficient information with which to admit or deny the allegations within paragraph 24 and therefore DENIES same.

DAMAGES

25. Defendant DENIES the allegations in paragraph 25, including all subparagraphs.

26. Defendant DENIES the allegations in paragraph 26.

27. Defendant DENIES the allegations in paragraph 27.

28. Defendant is without sufficient information with which to admit or deny the allegations within paragraph 28 and therefore DENIES same.

29. Defendant DENIES the allegations in paragraph 29.

30. Defendant is without sufficient information with which to admit or deny the allegations within paragraph 30, as they pertain to plaintiff, and therefore DENIES same.

CAUSATION

31. Defendant DENIES the allegations in paragraph 31.

ATTORNEY'S FEES AND COSTS

32. Defendant DENIES the allegations in paragraph 32.

PUNITIVE DAMAGES

33. Defendant DENIES the allegations in paragraph 33.

JOINT AND SEVERAL LIABILITY

34. Defendant DENIES the allegations in paragraph 34.

COUNT I

VIOLATION OF CIVIL RIGHTS, 42 U.S.C. § 1983

FOURTH AMENDMENT – UNLAWFUL SEIZURE

35. Defendant incorporates by reference its answers contained in paragraphs 1-34.

36. Defendant is without sufficient information with which to admit or deny the allegations within paragraph 36 and therefore DENIES same.

37. Defendant states that The Fourth Amendment to the United States Constitution speaks for itself and therefore DENIES the allegations in paragraph 37.
38. Defendant DENIES the allegations in paragraph 38.
39. Defendant DENIES the allegations in paragraph 39.
40. Defendant DENIES the allegations in paragraph 40.

COUNT II
VIOLATION OF CIVIL RIGHTS, 42 U.S.C. § 1983
FOURTH AMENDMENT – EXCESSIVE FORCE

41. Defendant incorporates by reference its answers contained in paragraphs 1-41.
42. Defendant states that The Fourth Amendment to the United States Constitution speaks for itself and therefore DENIES the allegations in paragraph 42.
43. Defendant DENIES the allegations in paragraph 43.

AFFIRMATIVE DEFENSES

For further answer and defense, Defendant affirmatively defends based on the following:

1. Plaintiff's Petition fails to state a claim upon which relief can be granted.
2. Defendant is immune from liability under the Official Immunity and Public Duty doctrines.
3. Plaintiff's complaint is barred by the doctrine of qualified immunity because defendants conduct did not violate clearly established statutory or constitutional rights of Plaintiff.

Respectfully submitted,
WINSTON E. CALVERT,
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ATTORNEYS FOR DEFENDANTS
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CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2015, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon:

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